



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

200851043

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

SEP 24 2008

UIL No. 408.03-00

Legend:

Taxpayer A =

Individual B =

Individual C =

Medical Center D =

Date 1 =

Date 2 =

Date 3 =

Date 4 =

Amount T =

Amount U =

IRA X =

IRA Y =

Company A =

SE:T:EP:RA:T4

Dear:

This is in response to your letter dated ***, supplemented by letters dated ***, submitted on your behalf by your authorized representative, in which you request a waiver of the 60-day rollover requirement contained in section 408(d)(3) of the Internal Revenue Code (the "Code").

Taxpayer A, age 60, represents that she received a distribution totaling Amount T from IRA X. Taxpayer A asserts that her failure to accomplish a rollover within the 60-day period prescribed by section 408(d)(3) of the Code was due to mental anguish associated with the murder of her granddaughter, and concerns about her daughter's mental health and pending criminal charges, which impaired her ability to make sound financial decisions. Taxpayer A further represents that Amount T has not been used for any other purpose.

Under penalty of perjury, Taxpayer A submits the following facts and representations in support of the ruling request:

Individual B is Taxpayer A's daughter. Individual B suffers from depression with psychotic tendencies and paranoid delusions. Individual B was admitted to the psychiatric unit at Medical Center D sometime prior to Date 1. During Individual B's admission, her daughter, Individual C, lived with Taxpayer A.

Individual B was released from Medical Center D into Taxpayer A's care on Date 1. On Date 2, Individual C was found dead in Taxpayer A's home. Individual B was arrested on Date 2 and charged with the murder of Individual C.

Taxpayer A maintained IRA X with Company A. On Date 3, Taxpayer A requested a distribution of Amount T from IRA X. Taxpayer A represents that she withdrew Amount T from IRA X with the intent to rollover Amount T into an eligible rollover IRA within the 60-day rollover period. However, because of her grief and confusion during the period immediately following her granddaughter's death, Amount T, less an amount used by Taxpayer A for other purposes, was rolled over into IRA Y on Date 4, which was beyond the 60-day rollover period.

Based on the facts and representations, Taxpayer A requests that the Internal Revenue Service (the "Service") waive the 60 day rollover requirement contained in section 408(d)(3) of the Code, with respect to the distribution of Amount T from IRA X, because failure to do so would be against equity and good conscience.

Section 408(d)(1) of the Code provides that, except as otherwise provided in section 408(d), any amount paid or distributed out of an IRA shall be included in gross income by the payee or distributee, as the case may be, in the manner provided under section 72 of the Code.

Section 408(d)(3) of the Code defines, and provides the rules applicable to IRA rollovers.

Section 408(d)(3)(A) of the Code provides that section 408(d)(1) of the Code does not apply to any amount paid or distributed out of an IRA to the individual for whose benefit the IRA is maintained if

(i) the entire amount received (including money and any other property) is paid into an IRA for the benefit of such individual not later than the 60th day after the day on which the individual receives the payment or distribution; or

(ii) the entire amount received (including money and any other property) is paid into an eligible retirement plan (other than an IRA) for the benefit of such individual not later than the 60th day after the date on which the payment or distribution is received, except that the maximum amount which may be paid into such plan may not exceed the portion of the amount received which is includible in gross income (determined without regard to section 408(d)(3)).

Section 408(d)(3)(B) of the Code provides that section 408(d)(3) does not apply to any amount described in section 408(d)(3)(A)(i) received by an individual from an IRA if at any time during the 1-year period ending on the day of such receipt such individual received any other amount described in section 408(d)(3)(A)(i) from an IRA which was not includible in gross income because of the application of section 408(d)(3).

Section 408(d)(3)(D) of the Code provides a similar 60-day rollover period for partial rollovers.

Section 408(d)(3)(I) of the Code provides that the Secretary may waive the 60-day requirement under sections 408(d)(3)(A) and 408(d)(3)(D) of the Code where the failure to waive such requirement would be against equity or good conscience, including casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement. Only distributions that occurred after December 31, 2001, are eligible for the waiver under section 408(d)(3)(I) of the Code.

Rev. Proc. 2003-16, 2003-4 I.R.B. 359 (January 27, 2003) provides that in determining whether to grant a waiver of the 60-day rollover requirement pursuant to section 408(d)(3)(I), the Service will consider all relevant facts and circumstances, including: (1) errors committed by a financial institution; (2) inability to complete a rollover due to death, disability, hospitalization, incarceration, restrictions imposed by a foreign country or postal error; (3) the use of the amount distributed (for example, in the case of payment by check, whether the check was cashed); and (4) the time elapsed since the distribution occurred.

The information presented and documentation submitted by Taxpayer A is consistent with her assertion that her failure to accomplish a rollover within the 60-day period was due to the mental anguish associated with the series of tragic events surrounding the murder of her granddaughter, and concerns about her daughter's mental health and pending criminal charges.

200851043

Therefore, pursuant to section 408(d)(3) of the Code, the Service hereby waives the 60-day rollover requirement with respect to the rollover of Amount U to IRA Y. Provided all other requirements of section 408(d)(3) of the Code, except the 60-day requirement, are met with respect to such contribution, Amount U will be considered a rollover contribution within the meaning of section 408(d)(3) of the Code.

No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations which may be applicable thereto.

This letter is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

A copy of this ruling is being sent to your authorized representative in accordance with a power of attorney on file with this office.

If you wish to inquire about this ruling, please contact ***, I.D. No. ***, at *** or *** (FAX). Please address all correspondence to SE:T:EP:RA:T4.

Sincerely yours,


Donzell H. Littlejohn, Manager
Employee Plans, Technical Group 4

Enclosures:
Deleted Copy of Ruling Letter
Notice of Intention to Disclose

cc: